

AMENDED IN SENATE MAY 4, 1998  
AMENDED IN SENATE APRIL 13, 1998

**SENATE BILL**

**No. 1951**

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**Introduced by Senator Brulte**  
(Principal coauthor: Assembly Member Cedillo)  
(Coauthor: Assembly Member Villaraigosa)

February 19, 1998

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An act to add Section 1395.5 to the Health and Safety Code, and to add Section 10127.4 to the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1951, as amended, Brulte. Health coverage: providers: advertising.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a crime. Existing law also provides for the regulation of policies of disability insurance administered by the Insurance Commissioner.

This bill would make it unlawful ~~to prohibit any health care provider from advertising his or her participation in a particular~~ *for a* health plan, medical group, independent practice association (IPA), preferred provider organization (PPO), or managed care organization ~~under specified circumstances to prohibit any health care provider from advertising.~~ Since the willful violation of the provisions relating to health care service plans is a crime, this bill would

impose a state-mandated local program. The bill would also state that its provisions are not intended to prohibit contract provisions that establish reasonable guidelines for the advertisement of a provider's participation, ~~as specified as a member of a panel serving the enrollees, subscribers, and beneficiaries of the above-specified health care entities.~~

This bill would also make it unlawful, with respect to specified disability insurance contracts, for a health plan, medical group, independent practice association (IPA), preferred provider organization (PPO), or managed care organization to prohibit any health care provider from advertising, ~~except that any of these entities may prohibit a provider from using the name, logo, or trademark of any health care entity with whom the provider does not have a direct contractual relationship but would not prohibit contract provisions that establish reasonable guidelines for the advertisement of a provider's participation on a panel serving insureds, under specified circumstances.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares as  
2 follows:

3 (a) The State of California recognizes that one of the  
4 benefits of managed care is the availability of a broad  
5 range of services to health plan enrollees.

6 (b) If patients are unaware of services covered by  
7 their health plans, they may not use these services, even  
8 when to do so would be beneficial to their health.

9 (c) The provider booklets issued by health plans,  
10 containing the names of participating providers, are  
11 frequently outdated.

1 (d) Enrollees' awareness of covered services and  
2 participating providers will be improved if participating  
3 health care providers are permitted to advertise their  
4 services.

5 (e) Commercial speech is protected by the First  
6 Amendment to the United States Constitution, and  
7 should not be restricted except when necessary to  
8 prevent fraud or dishonesty.

9 SEC. 2. Section 1395.5 is added to the Health and  
10 Safety Code, to read:

11 1395.5. (a) Notwithstanding the provisions of any  
12 contract that is issued, amended, renewed, or delivered  
13 on or after January 1, 1999, it shall be unlawful ~~to prohibit~~  
14 ~~any health care provider from advertising his or her~~  
15 ~~participation in a particular~~ *for a health plan, medical*  
16 *group, independent practice association (IPA),*  
17 *preferred provider organization (PPO), or managed care*  
18 *organization, as long as the advertising does not*  
19 *constitute a violation of any other provision of law.*  
20 *organization to prohibit any health care provider from*  
21 *advertising.*

22 (b) Nothing in this section is intended to prohibit  
23 contract provisions that establish reasonable guidelines  
24 for the advertisement of a provider's participation;  
25 ~~including, but not limited to, a requirement that each~~  
26 ~~advertisement discloses the effective dates of the~~  
27 ~~provider's contract with the health plan, medical group,~~  
28 ~~IPA, PPO, or managed care organization.~~ *as a member of*  
29 *a panel serving the enrollees, subscribers, or beneficiaries*  
30 *of a health plan, medical group, IPA, PPO, or managed*  
31 *care organization, if the provider's participation is not the*  
32 *result of a direct contractual relationship with the health*  
33 *plan, medical group, IPA, PPO, or managed care*  
34 *organization, including, but not limited to, a requirement*  
35 *that each advertisement contain a disclaimer to the effect*  
36 *that the provider's services are covered for some, but not*  
37 *all, plans or product lines of the health plan, medical*  
38 *group, IPA, PPO, or managed care organization.*

39 SEC. 3. Section 10127.4 is added to the Insurance  
40 Code, to read:

1 10127.4. (a) Notwithstanding the provisions of any  
2 contract that is issued, amended, renewed, or delivered  
3 on or after January 1, 1999, it shall be unlawful for a health  
4 plan, medical group, independent practice association  
5 (IPA), preferred provider organization (PPO), or  
6 managed care organization to prohibit any health care  
7 ~~provider from advertising, except that a health plan,~~  
8 ~~medical group, independent practice association (IPA),~~  
9 ~~preferred provider organization (PPO), or managed care~~  
10 ~~organization may prohibit a provider from using the~~  
11 ~~name, logo, or trademark of any health care entity with~~  
12 ~~whom the provider does not have a direct contractual~~  
13 ~~relationship.~~ provider from advertising.

14 (b) *Nothing in this section is intended to prohibit*  
15 *contract provisions that establish reasonable guidelines*  
16 *for the advertisement of a provider's participation on a*  
17 *panel serving insureds, if the provider's participation is*  
18 *not the result of a direct contractual relationship with the*  
19 *insurer, including, but not limited to, a requirement that*  
20 *each advertisement contain a disclaimer to the effect that*  
21 *the provider's services are covered for some, but not all,*  
22 *insureds or product lines.*

23 SEC. 4. No reimbursement is required by this act  
24 pursuant to Section 6 of Article XIII B of the California  
25 Constitution because the only costs that may be incurred  
26 by a local agency or school district will be incurred  
27 because this act creates a new crime or infraction,  
28 eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section  
30 17556 of the Government Code, or changes the definition  
31 of a crime within the meaning of Section 6 of Article  
32 XIII B of the California Constitution.

33 Notwithstanding Section 17580 of the Government  
34 Code, unless otherwise specified, the provisions of this act  
35 shall become operative on the same date that the act  
36 takes effect pursuant to the California Constitution.